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UNCLAS SECTION 01 OF 02 MEXICO 003668

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E.O. 12958: N/A

TAGS: [PGOV](#) [PREL](#) [PINR](#) [MX](#)

SUBJECT: MEXICO PROSECUTES FIRST CASE UNDER THE FEDERAL TIP LAW

¶1. (SBU) Summary. On November 28, the Mexican Attorney General's Office (PGR) charged 6 suspects with Trafficking in Persons (TIP) - the first time anyone has been charged under Mexico's TIP law since its adoption in November of 2007. The judge handling the case is evaluating the PGR's petition and has ordered the detention of the suspects until the resolution of the case. With four additional TIP investigations underway, both USG officials and the PGR are optimistic that more cases will be prosecuted under the TIP law in the near future. By establishing a more direct and informative dialogue with U.S. counterparts, and seriously pursuing prosecutions, the PGR reaffirms its ability to tackle the challenges posed by TIP. End Summary.

Why the Delay in Prosecutions?

¶2. (SBU) Many attribute delays to date on prosecutions to competing jurisdictions between the two bureaus assigned to the investigation and prosecution of TIP cases: the Specialized Bureau of Investigation on Organized Crimes (SIEDO) and the Office for Violent Crimes against Women and TIP (FEVIMTRA). Earlier in the year, PolOff met with Sadot Sanchez Carreno, the Director of the TIP office of the National Commission on Human Rights (CNDH), to discuss the delay in prosecuting cases under the TIP legislation. Carreno noted that when TIP is suspected, the case is initially sent to FEVIMTRA for investigation. If FEVIMTRA finds organized criminal activity after conducting an investigation, the case should hypothetically be transferred to SIEDO. SIEDO claims to have a good working relationship with FEVIMTRA, but critics from the NGO community fear that the competing jurisdictions between the two complicate the timely and efficient investigation and prosecution of cases. Immigration and Customs Enforcement (ICE) officials have worked with the GOM vigorously to help address this question.

¶3. (SBU) Both FEVIMTRA and SIEDO maintain that scant financial resources and personnel problems also compromise the judicious investigation and prosecution of TIP cases. Then-acting head of FEVIMTRA, Oscar Gonzales Mendivil, told PolOff in September that FEVIMTRA was a resource-poor bureau that did not have sufficient staff to deal with TIP cases. Although SIEDO faces its own resource constraints, it has 13 attorneys dedicated specifically to TIP cases, while FEVIMTRA has a total of five attorneys who must cover cases involving both violence against women and TIP country-wide. Moreover, although FEVIMTRA deals with crimes against women, it lacks the capacity and expertise to address trafficking issues.

¶4. (SBU) The PGR also cited as an obstacle to prosecution the current trafficking law that limits what TIP cases FEVIMTRA and SIEDO can investigate and prosecute. The law stipulates that for a case to be prosecuted at a federal level, the crime must fall into one of the following categories:

- a. External trafficking,
- b. Trafficking committed by government officials,
- c. Trafficking occurring on federal territory, or
- d. Trafficking involving organized crime, where three or more individuals are implicated, and where the violence is systematic.

Cases that do not meet one of the four criteria identified above fall to the states for investigation and prosecution. Both FEVIMTRA and SIEDO argue that state attorney general offices and local police

forces should take more responsibility for prosecuting TIP cases insofar as identifying occurrences of TIP within their states and conducting investigations are concerned.

15. (SBU) Notwithstanding PGR's claim that the law limits the number of cases that fall into its jurisdiction, it would appear that most should in fact fall under the federal law as TIP almost invariably involves organized crime. Meanwhile, the suggestion that the states should take on more cases also appears flawed. The federal law is included, to some extent, in the penal code of 20 Mexican states. Chiapas and Mexico City, however, are the only two states that have adopted the federal law in its entirety. Seeking to foist the lead for most TIP cases back on federal authorities, states further argue that the GOM has not provided them with sufficient funding to implement TIP reforms. On this point, though, the states are on shakier ground, as the federal government provides the states with funding, dividing it among different state secretariats. Unfortunately, no enforcement mechanism holds the states accountable for spending funds on TIP.

#### Mexico's First TIP Prosecution

16. (SBU) Mexico passed anti-trafficking legislation over two years ago in November 2007, but until recently the PGR had yet to prosecute anyone for violating the federal TIP law. When PolOff met with Guillermina Cabrera Figueroa, head of the Unit for the Investigation of Smuggling of Minors, Undocumented People, and Organs (UEITMIO) under SIEDO to discuss the lack of prosecutions of TIP cases, Figueroa told PolOff that the Secretariat of Foreign Relations (SRE) remained concerned about the USG annual assessment of Mexico in its TIP Report. She expressed willingness to cooperate with the USG in terms of exchanging information, and is optimistic that Mexico's ranking will improve once it starts prosecuting more

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TIP cases.

17. (SBU) Presently, SIEDO is investigating five TIP cases. On November 28 charges were filed in one of these cases thanks to cooperation and coordination among the Department of Justice (DOJ), ICE, the United States Agency for International Development (USAID), and the PGR. This marks the first prosecution under Mexico's federal TIP law since its adoption.

18. (SBU) The six suspects charged in the above-mentioned case were involved in the recruitment and transport of Mexican women and young girls for forced prostitution in the U.S. Following a DOJ-ICE-PGR meeting in Washington, D.C. in late August 2009, a fugitive indicted in a DOJ-led sex trafficking case in Georgia and three others were arrested. The fifth suspect was indicted in the United States and charged in Mexico. The sixth suspect and apparent ringleader remains a fugitive who authorities believe to be in Mexico. A follow up operation to locate and arrest him is pending. One defendant in the case was arrested and pled guilty in the U.S. and is pending sentencing there, while the other four are under preventive detention in Mexico while the judge evaluates the evidence against them. The progress made in this case - the first of its kind in Mexico - speaks well of the collaboration between the USG and Mexico on TIP, and offers hope that more TIP prosecutions in Mexico will soon follow.

19. (SBU) Comment. Mexico deserves praise for its first prosecution under the two-year old federal TIP law, but obstacles affecting the efficient prosecution of TIP cases will continue to plague the PGR. Sentencing of the suspects can take anywhere from one and a half to two years. Both SIEDO and FEVIMTRA are well aware of the institutional challenges as they attempt to tackle trafficking on a national level. Getting all 31 states on board will be an even more difficult task, given resource constraints and the need for wide-range judicial reform. The GOM remains wary of its Second Tier TIP country ranking and the possibility of falling back onto the "Watch List" category. It is, nevertheless, encouraging that the GOM appears to be taking TIP more seriously and that the PGR is working closely with the USG to improve its record on TIP prosecutions.

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